

HOUSE BILL REPORT

HB 2603

As Reported by House Committee On:
Juvenile Justice & Family Law

Title: An act relating to sealing diversion records.

Brief Description: Requiring a diversion record to be sealed upon the successful completion of the diversion or counsel and release.

Sponsors: Representatives Roberts, Dickerson, Lovick, Pettigrew, Green, O'Brien, Ericks, McDonald, Tom, Appleton, Moeller and Kagi.

Brief History:

Committee Activity:

Juvenile Justice & Family Law: 1/24/06, 1/25/06 [DPS].

Brief Summary of Substitute Bill

- Requires records to be automatically sealed when a juvenile turns 18 years of age if the juvenile's entire criminal history consists of only one diversion and there is no restitution owing in the case.

HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Moeller, Vice Chair; McDonald, Ranking Minority Member; McCune, Assistant Ranking Minority Member; Crouse, Lovick and Roberts.

Staff: Sonja Hallum (786-7092).

Background:

If a prosecuting attorney receives a report from law enforcement of an alleged offense, the prosecutor screens the complaint to determine whether there is juvenile court jurisdiction over the alleged offense and whether there is probable cause to believe that the juvenile committed the offense.

If the prosecutor determines the case is legally sufficient, the prosecutor is required to divert the case if the alleged offense is a misdemeanor, gross misdemeanor, or violation and the alleged offense is the offender's first offense or violation.

When the case is referred to Diversion, the juvenile will sign a contract in which the juvenile agrees to fulfill certain obligations in lieu of prosecution. These obligations may include restitution, community service, and counseling as well as other possible obligations.

The juvenile may be counseled and released if the offense did not involve a victim, or if the juvenile has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than \$50 in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss.

If a diversion contract is signed and the juvenile fails to follow the terms of the contract, the contract may be terminated by the court and the case re-referred to the prosecuting attorney to decide whether to file formal charges and bring the juvenile into the court system.

If the juvenile completes the terms of the contract, the juvenile's obligation ends and the offense is reflected on the juvenile's criminal history.

The juvenile's history in the official juvenile court file is open to the public unless the file has been sealed by court order. If a juvenile court grants a motion to seal a record, the court vacates the original adjudication and orders the record to be sealed. Thereafter, the proceedings in the case are treated as if they never occurred.

Records relating to juvenile court diversions may be sealed if the offender has spent two years in the community without committing an offense.

Summary of Substitute Bill:

Juvenile criminal history records must be automatically sealed when a juvenile turns 18 years of age if the juvenile's entire criminal history consists of only one diversion and there is no restitution owing in the case.

Substitute Bill Compared to Original Bill:

The substitute bill requires the juvenile criminal history records to be automatically sealed when the juvenile turns 18 years of age if the juvenile's entire criminal history consists of only one diversion and there is no restitution owing in the case. The original bill required the diversion record to be sealed upon completion of the diversion contract or the counsel and release.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (Original bill) The bill provides greater consistency between the juvenile diversion and deferred disposition programs. Diversion has been proven to be a successful program. There is only a 20 percent recidivism rate for youth who complete diversion. There is strong support in the community for this bill. The bill puts into law what is already the widely held belief that juvenile diversion records go away when the juvenile turns 18. We are concerned about the transition from youth to adulthood. There are long-term impacts to having a diversion as criminal history including difficulties in getting housing, employment and joining the military. Juveniles in diversion can be as young as 8 years old.

(With concerns) We are concerned about the possible fiscal impact.

Testimony Against: None.

Persons Testifying: (In support) Sarah Yatsko, Washington Defender Association and Washington Association of Criminal Defense Attorneys; Charles Shelan, Community Youth Services; Jim St. Ours, Community Youth Services; and Todd Dowell, Washington State Association of Prosecuting Attorneys.

(With concerns) Martha Harden, Superior Court Judges and Washington Association of Juvenile Court Administrators.

Persons Signed In To Testify But Not Testifying: None.